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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.706 OF 1998

The Commissioner of Income-tax ..Applicant.
V/s.
M/s.Pembril Fluidrive Ltd. ..Respondent.

Mr.A.S.Rao for applicant.
Mr.S.J.Mehta for respondent.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 4TH APRIL, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred question for the opinion of this Court reading as under :-

> " Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that subsidy received by the assessee under subsidy scheme from Government could not be taken into consideration to find out the 'Actual Cost' as defined in section 43(1) of the I.T. Act, 1961 for the purpose of computing depreciation and investment allowance ?

2. The above question has already been answered by the Apex Court in the case of **C.I.T. V/s. P.J. Chemicals Ltd. [(1994) 210 I.T.R.830 (S.C.)** in the affirmative i.e. in favour of the assessee and against the revenue. In this view of the matter, reference stands disposed of accordingly with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)